

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 1521 OF 2017
IN
WRIT PETITION NO. 6468 OF 2006**

KSL Reality & Infrastructure Ltd. ... Applicant

V/s.

Ichalkaranji Municipal Council & Ors. ... Respondents

Mr. Ajit Anekar i/b Auris Legal for the Applicant.
Mr. Tejpal Ingale for the Respondent Nos. 1 and 2.
Mr. A.A. Alaspurkar, AGP for the Respondent No.3.

**CORAM : A.S.OKA &
SMT. VIBHA KANKANWADI, JJ.
DATE : 14th JULY, 2017**

P.C.:

. Heard the learned Counsel appearing for the Applicant. Writ Petition filed by the Applicant was dismissed for non prosecution on 1st September 2016. By order dated 16th December 2016, the Writ Petition was restored. On 14th June 2017, when the Writ Petition was called out for admission, none appeared for the Applicant. Therefore, the Writ Petition was adjourned till 15th June 2017. On the adjourned date, none appeared for the Applicant. Therefore, Writ Petition was dismissed.

2 This application for restoration is opposed by the learned Counsel appearing for the first and second Respondents by pointing out that dues are to the extent of more than Rs.91,00,000/-. The learned Counsel appearing for the Applicant states that from the date of purchase of the property by the Applicant,

the Municipal Taxes have been paid up to date. We accept the said statement.

3 We have perused the averments made in the application. There is no explanation in the application as to why the Advocate for the Applicant was absent on 14th June 2017.

4 Writ Petition filed by the Applicant was dismissed as the Advocate appointed by the Applicant remained absent. Moreover, this application is filed within the prescribed period of 30 days. Therefore, a case for restoration is made out subject to payment of costs.

5 The learned Counsel appearing for the first and second Respondents opposes the restoration of interim relief. We may note here that the interim relief was granted by this Court after hearing the first and second Respondents. Therefore, the interim relief deserves to be restored, especially in the light of statement of the learned Counsel appearing for the Applicant that from the date of acquisition of the property by the Applicant, the Municipal Taxes have been paid up to date.

6 Considering the conduct of the Applicant, amount of costs is quantified at Rs.2,50,000/-. Accordingly, the application is allowed in terms of prayer clause (a). Interim relief granted on 16th January 2007 is restored.

7 The Applicant shall pay costs quantified at Rs.2,50,000/- to the first Respondent/Municipal Council within a period of one month from today. The payment of costs will be a condition precedent. Immediately after the amount of costs is paid, the first and second Respondents shall de-seal the property of the

Applicant.

8 If the statement made that the Applicant has paid the Municipal Taxes up to date from the date of acquisition is found to be incorrect, we grant liberty to the first and second Respondents to apply for recall of this order.

9 Civil Application is disposed of.

10 Writ Petition shall be added to the appropriate weekly board as per its turn.

(SMT. VIBHA KANKANWADI, J.)

(A.S.OKA, J.)